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March 24, 2011

VIA ECF & FASCIMILE 718-613-2365:

Chambers of the Honorable
Magistrate Cheryl L. Pollak
United States District Court
Eastern District of New York
225 Cadman Plaza East, Room 1230
Brooklyn, New York 11201

Request Granted

Cheryl Pollak

SO ORDERED, U.S. Magistrate Judge
3/24/11

Re: Abdellah Bouzzi, et al. v. F&J Pine Restaurant, LLC et al.
Case No.: 10 CV 0457 (DLI) (CLP)

Dear Judge Pollak:

This office is counsel to Defendants. We request permission to file sur-reply papers to Plaintiffs' motion for, *inter alia*, precertification of a FLSA class. The reason for the request is we received yesterday Plaintiffs' reply papers in further support of their motion, which for the first time introduce affidavits from two additional Plaintiffs, which contain allegations of improper pay, tip confiscation and failure to pay uniform allowances. Plaintiffs also for the first time submit 2 new class notices as exhibits for the Court to review. There is no explanation why Plaintiffs did not include these two affidavits or notices in their initial moving papers. We suggest strategically the affidavits and notices were placed in Plaintiffs' reply papers to prevent Defendants from addressing the allegations in Defendants' opposition papers, and to drive up Defendants' costs by requiring Defendants to file additional papers to address these new affidavits. Irrespective of the motive, Defendants have not had an opportunity to address the allegations contained in these two additional Plaintiff affidavits. Plaintiffs' motion is currently returnable April 7, 2011. Defendants request until April 1, 2011 to submit sur-reply papers opposing Plaintiffs' motion.

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Thank you for the Court's kind attention to this matter. Please notify this office of the Court's decision.

Very truly yours,

TRIVELLA & FORTE, LLP

/s/ Christopher A. Smith

Christopher A. Smith, Of Counsel (CS 9014)

cc: Basil Sitaras, Esq. (Plaintiffs' counsel) (via facsimile 212-257-6845 and electronic mail)